

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GAYLIN LYNN BURLESON,

No. C 05-1263 SI (pr)

Petitioner,

**ORDER DENYING MOTIONS FOR
CERTIFICATE OF APPEALABILITY
AND COUNSEL**

v.

SCOTT KERNAN,

Respondent.


Petitioner filed a notice of appeal and a motion for a certificate of appealability. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). The motion for a certificate of appealability is DENIED because petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). (Docket # 35.) That is, he has not demonstrated that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

Petitioner also filed a motion for appointment of counsel to represent him. Because the habeas petition has been denied, there is nothing further to litigate in the district court. The motion for appointment of counsel therefore is DENIED. (Docket # 37.) If petitioner wants counsel appointed to assist him on appeal, he may file a motion in the court of appeals.

The clerk shall forward to the court of appeals the case file with this order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

IT IS SO ORDERED.

DATED: December 17, 2007



SUSAN ILLSTON
United States District Judge